



CRP No.4363 of 2015

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 07.07.2023

CORAM:

THE HONOURABLE Mr. JUSTICE LAKSHMI NARAYANAN

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and MP No.1 of 2015

K.Muthusamy

..Petitioner

Vs

1. Kaliyannan
2. K.Balusamy
3. Mani
4. Thangavelu
5. Chinnammal
6. Nachimuthu
7. Kandasamy
8. Mani @ Arthanari
9. Thangammal
10. Athappan
11. Vijaya
12. Lakshmi
13. Selvi
14. Pachamuthu
15. Pappayee
16. Chinnammal
17. Muthusamy
18. Chinnapillai
19. Pappayee
20. Chinnammal
21. Ponnusamy
22. Thangammal
23. K. Sumathi

...Respondents



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PRAYER: Civil Revision Petition filed under Article 227 of the Constitution of India against the order dated 04.08.2014 made in I.A.No.49 of 2014 in O.S.No.270 of 2006 on the file of Additional District Munsif Court, Tiruchengode, Namakkal District.

For Petitioner : Mr.M.S.Palaniswamy

For Respondents : Mrs.Zeenath Begum
for R.1 and R.2
: No appearance
for RR.3, 4, 5, 7, 9, 10, 12, 14, 16, 17 to
21 and 23.
: Not ready in notice reg.RR.6, 8, 11, 13,
15 and 22.

ORDER

In a suit for partition, all the co-owners must be impleaded as parties. In this case, property was jointly purchased by Kalianna Goundar and Athiyanna Gounder. The allegation of the plaintiff is that the suit property has not been divided thereafter and they remain undivided till date. Hence to enforce partition, they have filed an application to implead all the co-owners of the property.

2. The learned trial Judge allowed the application on the ground that all the co-owners must be made as a party in the suit for partition. There is no



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illegality or irregularity in such a course adopted. In any event,

Mr.M.S.Palaniswamy, learned counsel for the revision petitioner would submit that the proposed parties 6 to 23 remained exparte after summons were served. So, no prejudice would be caused to the parties.

3. On the contrary, if the co-owners are not impleaded to the suit, it will be fatal in a suit for partition. The learned trial Judge has rightly impleaded the co-owners.

4. Mr.M.S.Palaniswamy, learned counsel would submit that the purchase was in the year 1933 and thereafter, 70 years have gone by and hence, they are not proper necessary parties to the suit.

5. By long lapse of time, unless and until a plea of ouster is made and proved, the co-owner does not lose his or her right. Therefore, if the property remains undivided for more than 70 years it does not mean that the other co-owners should not be made as a party to the suit.



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V.LAKSHMINARAYANAN,J.,

sr

6. Therefore, I confirm the order passed in I.A.No.49 of 2014 in O.S.No.270 of 2006 dated 04.08.2014 and the Civil Revision Petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed.

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Index:Yes/No

Speaking order/Non-speaking order

sr

To

1. The Additional District Munsif Court,
Tiruchengode, Namakkal District.

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